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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ORIGINAL

In the Matter of

Biennial Review **2002** Comments

)
)
) WC Docket No. 02-313

TO: Wireline Competition Bureau

COMMENTS OF **THE** WESTERN ALLIANCE

The Western Alliance requests that the Commission and its Wireline Competition Bureau employ the 2002 Biennial Review to review and modify the rules regarding the submission and collection of data for Interstate Common Line Support ("ICLS") purposes. Specifically, it requests: (1) that Section 54.903(a) of the Commission's Rules be modified to specify the types of ICLS data to be submitted on behalf of local exchange carriers and to set more practicable submission deadlines; (2) that Section 54.903(a) of the Rules be amended to direct the National Exchange Carrier Association ("NECA") to submit ICLS data on behalf of its Common Line Pool members; and (3) that Section 69.601(c) of the Rules be amended or clarified to minimize the number of certifications required from local exchange carriers for the same data.

Background

The Western Alliance is a consortium of the Western Rural Telephone Association and the Rocky Mountain Telecommunications Association. It represents about 250 rural telephone companies operating west of the Mississippi River. It previously has joined other local exchange carrier associations in expressing concern

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regarding the vague and potentially overbroad nature of the ICLS data submission requirements in Section 54.903(a) of the Rules.'

ICLS Data Items And Submission Dates

Section 54.903(a) of the Rules sets forth the filing requirements that must be met by carriers in order to be eligible to receive ICLS support. Section 54.903(a)(3) of the Rules has created a great deal of uncertainty among carriers that should be eligible to receive ICLS, because it does not provide a clear or specific description of the information required to be included in ICLS data submissions. Rather, the rule states only that ICLS data submissions must contain the preliminary information "needed" to calculate a carrier's "projected annual common line revenue requirement" for each of its study areas, and that carriers may later submit "corrections" to this projected revenue requirement. The rule does not indicate what specific cost data must be provided, and makes no mention of revenues.

The Commission's First Order on Reconsideration temporarily resolved this uncertainty by specifying the data to be submitted for the initial 2002 ICLS data filing.' However, that Order was limited to the initial filing, and failed to remove the uncertainty with respect to future ICLS data submissions

¹ Multi-Association Group (MAG) **Plan** For Regulation of **Interstate Services** of Non-Price Cap **Incumbent Local Exchange Carriers and Interexchange Carriers**, CC Docket No. 00-256, Federal-State Joint Board on **Universal Service**, CC Docket No. 9645, **Public Information Collection, Joint Comments of NRTA, NTCA, OPASTCO, USTA and Western Alliance** (May 17, 2002).

² Multi Association Group (**MAG**) **Plan** for Regulation of Non-Price Cap **Incumbent Local Exchange Carriers and Interexchange Carriers**, CC Docket No. 00-256, Federal-State Joint Board on **Universal Service**, CC Docket No. 9645, *First Order on Reconsideration in CC Docket No. 00-256, Twenty-Fourth Order on Reconsideration in CC Docket No. 96-45, 17 FCC Rcd 5635 (2002) (First Reconsideration Order)*.

The present wording of Section 54.903(a)(3) will cause additional confusion and uncertainty during 2003, as carriers prepare to submit their 2003 projections and to true-up their 2002 data. The Commission should prevent these problems from occurring by revising Section 54.903(a) in this proceeding to specify exactly what information must be included in future ICLS data submissions and true-ups. The Western Alliance proposes that the revised Section 54.903(a)(3) require all future ICLS data submissions to include the six data items specified in the First Order on Reconsideration. These items are the carrier's: (1) projected common line revenue requirement; (2) projected Subscriber Line Charge ("SLC") revenues; (3) projected revenue from transitional Carrier Common Line ("CCL") charges; (4) projected special access surcharges; (5) projected line port **costs** in excess of basic analog service; and (6) projected Long Term Support ("LTS") amounts.

Section 54.903(a) also provides an unreasonably short ten-day "window" between March 31 (the date that initial ICLS data projections are due) and April 10 (the date that corrections or updates to these projections are due). This period is wholly inadequate to allow the collection or generation of more accurate and complete data, and the conduct of other examinations and analyses that might lead to the refinement of the initial projections. For example, the "window" does not include most of the April-May-June preparation period for annual access tariff filings -- a time during which significant amounts of relevant loop **cost** and demand data are generated, collected, analyzed and refined. The Western Alliance proposes that Section 54.903(a) be amended to extend the ICLS projection update "window" a full three months from the March 31 filing date to June 30. This will enable carriers to incorporate data from their annual access tariff

filings, and allow them to furnish the Bureau with meaningful updates to their initial March 31 ICLS projections.

Section 54.903(a)(4) of the Rules requires carriers to submit their actual ICLS data for the prior year by July 31 of each year. In order to make this submission, rate-of-return carriers must complete detailed accounting and jurisdictional cost separations studies. Many Western Alliance members will be unable to complete the necessary studies by July 31 in most years. This is because they are small companies that rely on specialized consultants to perform their jurisdictional cost separations studies. These consultants typically serve a large number of small carriers, and are not able to complete the studies for substantial numbers of such carriers by July 31.³ The Western Alliance proposes that Section 54.903(a)(4) be amended to extend the final ICLS submission date to December 31 of each year. This will allow small carriers to complete the studies necessary for submission of their final ICLS data. A December 31 reporting date would also be consistent with the timeline for reporting final Local Switching Support data.

NECA As Filing Agent For Common Line Pool Members

The **MAG Order** makes clear that data used for tariff projections must be consistent with data submitted for ICLS purposes.⁴

³ It should also be noted that cost consultants cannot commence work on a cost study until a carrier's books are closed for the prior year. This also often requires work by outside accounting firms, and may not occur until March or April or later for many carriers that operate on a calendar year basis.

⁴ Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket No. 00-256, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate of Return Regulation, CC Docket No. 98-77, Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 98-166, *Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC*

Because, ICLS amounts are calculated simply by subtracting common line revenues from common line costs, the relevant ICLS data are essentially the same data that NECA currently collects for purposes of filing access tariffs and administering the common line pool. In other words, *the FCC rules already require NECA to collect and/or calculate all of the data needed to determine ICLS amounts for each pooling company.*

NECA has nearly twenty years experience in collecting and analyzing common line cost and revenue data. It has sophisticated processes in place for compiling and validating common line cost and revenue data. NECA's existing tariff forecast and settlement systems can easily produce ICLS data forecasts, interim true-ups and final results for pooling companies. Indeed, some of the data items needed for ICLS – **cost** and demand forecasts – are prepared by NECA itself on behalf of member companies, **as** part of its tariff filing responsibilities. Few, if any, Western Alliance members or other rate-of-return carriers have the necessary expertise to prepare such forecasts.

In the MAG Order, the Commission considered relying upon NECA to submit ICLS data to USAC, but did not do so because of differences between the ICLS submission dates and NECA's tariff forecast **schedule**.⁵ It is the Western Alliance's information and belief that NECA has since revised its tariff forecast schedule to conform to the schedule for ICLS data submissions. Therefore, discrepancies in data reporting cycles no longer exist and thus present no bar to reliance upon NECA for ICLS data. The

Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613 (2001) (MAG Order) at ¶ 164.

⁵ *Id.*

feasibility of this approach was demonstrated in April 2002, when NECA successfully submitted initial ICLS forecast data to the Universal Service Administration Corporation (“USAC”) on behalf of all 1,241 of its common line pool members.

The Western Alliance recommends that the Commission modify its ICLS submission rules to require that NECA submit ICLS data on behalf of its Common Line Pool participants.

Certifications

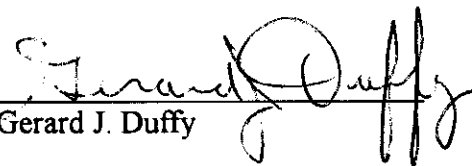
Section 69.601(c) of the Rules requires that data submissions by carriers to NECA “required by this title” be accompanied by a certification statement signed by the officer or employee of the carrier responsible for the overall preparation for the data submission. This requirement was imposed prior to adoption of the Commission’s Part 54 universal service rules.

Questions have arisen as to whether certifications submitted to NECA pursuant to Section 69.601(c) would cover ICLS data submissions made to USAC by NECA on behalf of pooling companies. The Western Alliance recommends that the Commission resolve any uncertainty in this regard by clarifying that the phrase “required by this title” in Section 69.601(c) applies to all data submissions to NECA, regardless of whether they are required under Parts 36, 54, 69 or any other part of Title 47 of the Code of Federal Regulations. This action will avoid the need for multiple certifications of the same data.

Conclusion

The rule modifications proposed herein by the Western Alliance will simplify and clarify the ICLS data submission requirements adopted by the Commission in its MAG Order. They will remove the present uncertainty regarding whether carriers have made the ICLS data submission necessary to become eligible to receive ICLS. They will make it far more efficient and less expensive for carriers to submit complete, accurate and reliable ICLS data, and for the Commission's staff and agents to collect, analyze and use such ICLS data, without any loss of information or protection for the public. Therefore, the proposed rule modifications will serve the public interest, and are appropriate for consideration during the 2002 Biennial Review

Respectfully submitted,
THE WESTERN ALLIANCE

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